

Charter Commission Minutes

Thursday, September 7, 2017

5:30-9:30pm, Police Station Community Room

In Attendance: Andy Churchill, Tom Fricke, Meg Gage, Nick Grabbe, Mandi Jo Hanneke, Irv Rhodes, Julia Rueschemeyer, Diana Stein, Gerry Weiss (arrived about 6 pm)

Absent: none

Agenda

1. Call to order, approve agenda, approve minutes
2. Public comment
3. Review public feedback on preliminary charter
4. Propose and discuss edits for final charter
5. Other planning: future meetings, final report, etc.
6. Topics not reasonably anticipated by the Chair 48 hours prior to the meeting
7. Adjourn

Meeting Called to order at 5:38 pm.

1. Minutes: Minutes from the June 15, 2017, August 29, 2017, and August 31, 2017 meetings were approved with changes.

2. Discussion on Preliminary Charter

Churchill: We have a list of topics members would like to discuss. We'll go through in order and discuss them.

"Town Agency" to "Agency": Churchill would like to change it because use isn't consistent throughout the Charter. In addition, he'd like to delete multiple-member bodies from the definition. Rueschemeyer argues that agency is used in other places, so we should just add "Town" in front of those places we need to describe better. We could also delete any nearby references to departments or offices because they are included in the Town Agency definition. Commission agreed to add "Town" in front of "agency" where appropriate.

Churchill wants to remove multiple-member bodies from the definition. Doesn't believe Agency should include volunteers. Hanneke indicates that there can be multiple-member bodies that consist of only Town employees; wants to keep definition as it is. Stein says it might be good to get Collins Center's advice. Rueschemeyer asked whether we intend section 2.8(a) to include multiple-member bodies. Churchill says that 2.8(a) and (b) are the same, but just make clear that one is for multiple-member bodies and the other for agencies (town departments). Rueschemeyer states that the sections serve different purposes: one is the ability to investigate; the other is how to get the information. Hanneke and Rueschemeyer argue that 2.3 and 2.8(a) don't conflict.

"Officer" Definition: Commission wants to make it consistent with the Town Agency definition

Council Size: Grabbe and Hanneke request a decrease in the Council size from 13 to 9 members – 4 at large and 5 ward. They argue that the Council needs to look at the whole town and a 5-4 split between ward and at-large is a much better ratio than a 10-3 split. A change would allow the voters to vote on a majority of Council members; 9 is a more common size and will result in better deliberations than a 13-member Council will. Research supports the use of smaller Councils. Communication between the Council and the Town Manager would be better with a smaller size, in addition to the ability to evaluate

the Manager's job performance. A smaller Council may result in a higher percentage of contested elections, and the business world has better outcomes with smaller councils.

Rhodes: good points are raised but the perception of 13 vs. 9 is huge. Nine is perceived as concentrating even more power, allowing money in elections to possibly exert even more influence. Large bodies can do evaluations through smaller subcommittees and can discuss issues over multiple days.

Weiss said that a Council is already dramatically decreasing participation; decisions formerly made by many will now be made by a few; he doesn't have faith that the ballot box will provide the necessary check on that power. 9 is better at supervising, but ease and efficiency at passing laws is not what we're aiming for. The real fatal flaw in the proposal is the combination of the Select Board and Town Meeting into one body.

Gage: opposes a reduction. Ward councilors will not be myopic; they'll be town-wide thinkers. This isn't NYC. It's important to build a political process that works for what the Town is about. Amherst is a Town of people who want to participate.

Rueschemeyer: At the Jones Library listening session, no one supported the concentration of power into 13 members. Going to 9 would concentrate it even more. Fewer Councilors equals more money needs to run, which means an even greater concern for money in politics. There's no data that a Manager-Council structure will work better for Amherst than the current structure. She feels like we could have used more voices on our 9-member Commission. Larger groups might also not be as unanimous.

Fricke: Unlike Weiss, he does have faith in the voting process and ballot box. Campaigning can and will be an effective check on power. Weiss is too quick to dismiss that. The Town Council system hinges on participating in elections, and he thinks it will work. However, with 13, we get the 2 most popularly supported candidates, which is more likely to result in more diverse views on the council. But, with 9, it's a better size with better supervisory capabilities over the Manager.

Stein: Believes 13 will end up with better quality because the council can divide up into subcommittees, which is a better system than having fewer people for subcommittees. Two people from each ward offers better opportunity for diversity. 9 is easier for power concentration.

Churchill: The Town is at a transition point; if the Commission moved to 9 at this point, it might cause unnecessary trauma. There is a big difference in perception of 9 vs. 13. Having two slots open for ward councilors might encourage more people to run, even though 9 would be more functional and deliberative.

Section 3.2(o) and (q):

Churchill: Are contract negotiations and litigation decisions all up to the Manager, or should the Council have a role?

Rhodes: Council has the ability to deny funding.

Stein: The Select Board (SB) hired a professional negotiator and was kept up to date, but didn't generally put in their two cents.

Weiss: SB never had approval of contracts, but would be kept informed.

Hanneke: Town Council is legislative, not executive; contract should not be getting approved by the legislature.

Churchill: Council is like a board of directors, where major settlements and contracts would be approved.

Rhodes: All contracts and settlements are approved by the School Committee; sees no reason why the Council should be any different.

Stein: SB doesn't approve.

Churchill: Maybe we should ask the Collins Center.

Fricke: Another way to look at it, there is always a level of oversight by the Council; any Manager negotiating a big issue or settlement or contract, will make sure the Council is on board; we don't have to mandate it in the charter.

Rueschemeyer: But it could be in there; if there's a problem, we want the Council to weigh in.

Section 3.3(d) – Community Participation Officer: Churchill: wants to clarify that it can be an existing employee.

Gage: Wants a better description, as it's too squishy right now.

Rueschemeyer: One of the goals was a community organizer type role.

Weiss: The Manager will have to set the goals in order to evaluated performance.

Gage: What about an ombudsman role?

Fricke: We decided we didn't want the CPO to field complaints.

Section 5.3: Hanneke suggested clarifications, which were accepted.

Budget Timeline: Churchill wanted to extend the amount of time for the Finance Subcommittee to review the budget, and to extend the Town Council's time to June 30. His suggestions were adopted.

Commission took a break, at which time the minute taking role switched from Hanneke to Gage.

Changing Ward to District:

Discussion: Discussed if "district" is friendlier or it doesn't matter.

Decision: Agreed to change all references from "ward" to "district"

Moving the review of the charter and bylaws earlier:

Discussion: Churchill argues to move review to every year ending in a 3 so it's not 8 years before first review.

Rhodes: Let's look in parallel at whether we'll change length of terms because if we go to 3 year terms there will be effects on the review.

Hanneke: assume for now terms are 2 years and make this change. If we change the length of terms we can come back to revisit this.

Decision: There will be a Charter review will be every year ending in a 4 rather than 6.

Periodic review of bylaws and charter regarding who does the review?

Decision: Add to 9-6 and 9-7 language “not holding elective office when appointed.”

Decision: In section 9-7 change number 7 to 6.

Revisit preliminary elections: Suggest saying “Until such time as Rank Choice Voting is adopted” there will be preliminary elections where warranted.”

Discussion: There was concern that if there are 31 people on ballot and people win with a small minority of vote. Move section d in transition section back to elections.

Another concern was about the additional cost of even one primary as well as the inconvenience.

Weiss Proposed mandating a commission that will implement Ranked Choice Voting (RCV) quickly.

Hanneke: If we implement RCV and it’s challenged, the court could rule against RCV since there is no other municipality that uses it that wasn’t set up as part of an E-type charter.

Churchill was concerned it may be more difficult to fix. Do we stick with language we have around an election study commission?

Discussion changing ‘election study commission” to “Rank Choice Voting Commission” with a deadline and a mandate.

Decision: We will keep the reference to preliminary elections in the transition section as written.

Rank choice voting: Discussion of new sentence. Delete “or other similar voting method of voting” and insert instead” “a voting method shall be considered Ranked Choice Voting if a voter ranks candidates in order of preference and a voter’s lower ranked choice does not impact the likelihood of a higher ranked choice being elected.”

Decision: agreed with this change.

Discussion of the commission to recommend form of Ranked Choice Voting and timing:

Rhodes: There must be a provision for implementation.

Weiss: The commission has to come up with cost, implementation, whether we need new machines.

Decision: section 10-10 after the word “adopt” add after first sentence add “and implement. No change to timing of commission.

Wards 3 and 4:

Discussion: There was some concern that we have precincts 10 and 4, and 9 and 5 paired

Decision: to keep districts as we originally designed them

Stipends:

Discussion: section 10-7 – s; Should we change the stipends?

We chose a middle course between Greenfield (\$2,000 for Councilors) and Northampton (between \$9,000 and \$10,000).

Decision: no change

Planning board and ZBA:

If the Council appoints the boards which will then tell the Council what to do seems circular. Should they be appointed by the Manager or elected?

Stein: We should have some elected members of the planning board.

Rhodes: My daughter lives in a town with an elected planning board, but people didn't know what planning board does and why they were elected. Favors keeping it the way it is.

Gage: She favors making half of the Planning Board elected so voters have input directly. People are not appointed now if they are perceived as "difficult."

Churchill: Favors appointment.

Rueschemeyer: She favors giving voters more of a say, feels voters can distinguish issues.

Grabbe: If half the planning board would be elected, how would it work?

Discussion: People would run. Appointed term is 3 years, if elected would they be only 2-year terms?

Stein: She also knows of examples of people not appointed because they were not in the inside group.

Weiss: It's a toss-up; he was reluctant to add more cost from another election.

Hanneke: In the current system people are appointed by the Town Manager who may not want people on who are difficult. The Council would be more open to diverse appointments.

Decision to defer vote on Planning Board appointments to next meeting

Term limits:

Discussion: opinion that we haven't had a thorough discussion of term limits. Incumbency has advantages but incumbents are hard to vote out, especially since we can't get rid of the reference to incumbency on the ballot.

Churchill: Could be a cabal of the 3 at-large councilors, privileged status and no one runs against them. How about 5 terms which is a long time? Take one term off and then run again.

Rueschemeyer: Reports on research which is mixed. Power of lobbyists increased with state term limits.

Rhodes: Believes in term limits.

Fricke: Skeptical about term limits, not strongly opposed, but if we have them should be long term.

Stein: Sometimes there aren't other people who want to run

2-year terms: Return to at the next meeting.

Respectfully Submitted,

Mandi Jo Hanneke & Meg Gage

Documents:

- Areas to Revisit in Draft
- September 7, 2017 Master Draft